

Decision **PROPOSED DECISION OF ALJ KIM** (Mailed 11/12/2014)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2012-2014 California Alternate Rates for Energy (CARE) and Energy Savings Assistance Programs and Budgets.

Application 11-05-017
(Filed May 16, 2011)

And Related Matters.

Application 11-05-018
Application 11-05-019
Application 11-05-020

**DECISION GRANTING COMPENSATION TO NATIONAL HOUSING LAW PROJECT
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-08-044**

Claimant: National Housing Law Project	For contribution to D. 12-08-044
Claimed (\$): \$22,617.00	Awarded (\$): \$11,889.00 (reduced 47.4%)
Assigned Commissioner: Catherine J. K. Sandoval	Assigned ALJ: Kimberly Kim

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision On Large Investor-Owned Utilities' 2012-2014 Energy Savings Assistance (ESA) (Formerly Referred To As Low Income Energy Efficiency Or LIEE) And California Alternate Rates For Energy (CARE) Applications
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code Sections 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	Aug. 8, 2011	Yes; 2 PHCs were held: August 8 and September 6, 2011
2. Other Specified Date for NOI:	Oct. 11, 2011	NHLP was granted party status on September 26, 2011, more than 30 days after the first Prehearing Conference. The September 26 order also specifically granted NHLP 15 days from the date of the ruling to file its NOI.
3. Date NOI Filed:	Oct. 11, 2011	Yes
4. Was the NOI timely filed?		Yes. NHLP timely filed its NOI on October 11, 2011.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.11-05-017	Yes
6. Date of ALJ ruling:	Nov. 3, 2011	Yes
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes

Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.11-05-017	Yes
10. Date of ALJ ruling:	Nov. 3, 2011	Yes
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-08-044	Yes
14. Date of Issuance of Final Order or Decision:	Aug. 30, 2012	Yes
15. File date of compensation request:	Oct. 29, 2012	Yes
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
2	The September 26, 2011 ruling conferring party status on NHLP specifically granted NHLP 15 days from the date of the ruling to file its NOI.	Correct. The November 3, 2011 Ruling confirmed customer status and financial hardship.

PART II: SUBSTANTIAL CONTRIBUTION**A. Description of Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. Lifting the legal prohibition on ESAP assisting multifamily rental buildings on common-area measures, especially heat and hot water systems: NHLP (coordinating closely with the California Housing Partnership Corporation ["CHPC"] and National Consumer Law Center ["NCLC"]) legally contended that the Commission should reverse prior rulings in D.07-12-051 and D.08-11-031 that held -- due to Civil Code § 1941.1 -- ESAP was barred from providing assistance to owners of multifamily rental housing, especially assistance for common systems such as heating or hot water. NHLP sought a ruling that Section 1941.1 does not legally bar ESAP from assisting multifamily rental units (including for heat and hot water measures) and that the relevant holdings in D.07-12-051 and D.08-11-031, to the extent based on Section 1941.1, should be reversed or revised.</p>	<p>CLAIMANT'S PRESENTATIONS:</p> <p>1. NHLP briefed this issue, contending in the "Initial Brief of the National Housing Law Project" et al., 2/2/12, at 36-42, that "The Commission Ruling That Prohibits Heating and Hot Water System Repair and Replacement in Rented Housing Should be Revised." NHLP further addressed this issue in the "Reply Brief of National Housing Law Project" et al., 2/16/12, at 7-8 (seeking to "lift the current prohibition on replacing or repairing heating or hot water systems in rental property" and noting the support of other parties for this position).</p> <p>FINAL DECISION:</p> <p>1. (a) In D.12-08-044 (issued 8/30/12), at 103, the Commission noted that it had previously "recognized that furnace...or water heater repair and replacement work in renter-occupied units as the legal responsibility of the landlord," citing D.07-12-051, D.08-11-031, and Civil Code Section 1941.1. At 104, the Commission stated: "The Civil Code Section 1941.1 merely creates landlords' legal responsibility to maintain habitable rental property. . . It also does not prohibit the use of ratepayer funds to provide assistance to the landlords to invest in energy efficient rental units." (<i>emphasis added</i>). This is precisely the legal ruling that NHLP et al. sought.</p>	<p>In this proceeding, CHPC, the National Consumer Law Center (NCLC) and the National Housing Law Project (NHLP) generally participated and acted in unison. NCLC, CHPC, and NHLP consistently provided joint testimony and other filings in this proceeding. These three intervenors' efforts were primarily focused on the multifamily segment and related issues as they relate to the ESA Program. While those issues are important, they are only a few of the many issues and important points considered and addressed in the overall proceeding, which looked at numerous issues affecting both the ESA and CARE Programs. We find that NHLP has made a substantial contribution on the multifamily segment and related issue, as claimed, but</p>

	(b) D.12-08-044, at 336, Finding of Fact 163 & 164 (“Code Section 1941.1 also does not prohibit the use of ratepayer funds to provide assistance to the landlords to invest in energy efficient rental units.”)	reduce the hours by 50% to account for duplication.
<p>2. As a policy matter, multifamily rental buildings should be allowed to receive assistance under ESAP: NHLP (coordinating closely with NCLC and CHPC) contended that if the prior legal holdings based on Civil Code Section 1941.1 were reversed or revised (see 1, above), then, as a policy matter, the Commission should consider allowing ESAP to assist multifamily rental buildings more fully, especially as to common area heating and hot water systems.</p> <p>NHLP (along with CHPC and NCLC) argued that heating and hot water measures should be allowed as part of an audit-driven, whole-house approach under which ESAP would provide assistance (but not necessarily paying 100% of the costs) for all cost-effective measures in a multifamily building.</p> <p>The Commission has opened a second phase of the proceeding – including the hiring of a multifamily segment study consultant – in which these issues will be more fully explored.</p>	<p>CLAIMANT’S PRESENTATIONS</p> <p>2. NHLP, in coordination with the intervenors CHPC and NCLC, submitted the testimony of several witnesses in support of its policy contention that ESAP should provide greater assistance to common systems/common area equipment in multifamily rental properties, especially for heating and hot water measures:</p> <ul style="list-style-type: none"> - “Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 11/18/11, see especially at MS-7 (noting that for multifamily buildings, ESAP “does not include those [measures] with the highest levels of energy savings ... such as hot water systems and in some instances, heating”); at MS-10 (“Commission should revise its current prohibition on providing assistance to heating and hot water systems in multifamily rental housing”); at MS-16 to 17 (ESAP “makes it ... difficult to achieve significant savings relating to heat and hot water systems”); at MS 17-18 (offering “policy opinions as to why the Commission should reconsider that portion of D.0811-031” prohibiting ESAP assistance for heating and hot water systems in multifamily buildings”). - “Testimony of Dan Levine on Behalf of NCLC, NHLP and CHPC,” 11/18/11, see especially at DL-7 (“ESAP offers only a limited number of 	<p>Partly agreed, and also see discussion in Issue 1, above. This issue is also subsumed within Issue 1 above.</p> <p>We agree that this is a policy issue, but the real issue is whether the Commission should consider potentially shifting the costs associated with measures that landlords are legally obligated to provide at their own cost, to the ratepayers. To date, the Commission has viewed and reviewed this issue with that framework.</p>

	<p>energy efficiency measures that exclude building systems like heating and hot water”).</p> <p>- “Reply Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 12/9/11, <i>see</i> especially at MS-8 (a proposed multifamily pilot “fails to acknowledge the exclusion of common area measures, particularly domestic hot water with high energy savings potential”); at MS-8 (describing savings from installation of high-efficiency DHW boilers).</p> <p>- “Reply Testimony of Ann Silverberg on Behalf of NCLC, NHLP and CHPC,” 12/9/11, <i>see</i> especially at AS-4 (highlighting the “proposed treatment of large central system and hot water systems” in a proposed multifamily pilot);</p> <p>- “Reply Testimony of Charles Harak on Behalf of NCLC, NHLP and CHPC,” 12/9/11, <i>see</i> especially at CH-6 (“ESAP [should] be allowed to provide assistance for cost-effective centrally-provided heat and hot water systems in low-income multifamily buildings”); at CH-8 (Massachusetts multifamily program fully pays for “repair or replacement of heating systems and hot water systems and/or their controls (including common systems)”); at CH-13 (Rhode Island’s and New Jersey’s multifamily program provides assistance for common area measures).</p> <p>- “Responses of NCLC, CHPC and NHLP to ALJ’s Ruling Seeking Comments,” 1/13/12, at 2-14 (providing extensive information regarding the multifamily measures that these parties seek to have covered by ESAP and their costs).</p>	
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	<p>- “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 25-43 (“ESAP Should Take An Audit-Based ‘Whole Building’ Approach to Multifamily Properties in Which No Measures are Arbitrarily Excluded”).</p> <p>- “Reply Brief of NCLC, CHPC and NHLP,” 2/16/12, at 7-10 (urging, <i>inter alia</i>, a “whole building” approach that would allow ESAP to “improve the efficiency of heating and hot water systems in rental housing”).</p> <p>FINAL DECISION:</p> <p>D.12-08-044, at 6 (“direct[ing] several of the more complex issues be further investigated ... during the second phase of this consolidated proceeding [including] a comprehensive multifamily segment strategy”); at 12 (discussing “Comprehensive Multifamily Segment Strategies”); at 104-105 (discussing the scope of the “multifamily work during the second phase of the proceeding” including potential changes regarding ESAP’s rules for multifamily buildings); at 141-144 (“Multifamily Comments and Proposals of NCLC et al.”); at 156 (citing/analyzing “NCLC et al.’s own figures”); at 166 (“The Final Report [of the multifamily segment study] shall include ... how multifamily segment measure offerings should be modified (including central system needs) and develop possible co-pay or financing frameworks that comply [with] the ESA cost-effectiveness approach”).</p>	
3. Expedited enrollment: NHLP, in coordination with CHPC and NCLC, contended that the	<p>CLAIMANT’S PRESENTATIONS:</p> <p>3. (a) “Testimony of Matt Schwartz on</p>	Yes, but <i>see</i> Issue 1, above.

<p>Commission should consider adoption of “Expedited Enrollment” in order to save the time and expense now incurred in IOUs certifying each individual’s income.</p> <p>NHLP (along with CHPC and NCLC) presented testimony that “expedited enrollment” is currently used in the Weatherization Assistance Program (“WAP”) operated by the state’s Department of Community Services and Development (“CSD”), under a memorandum of understanding signed by the federal Department of Housing and Urban Development and Department of Energy, and that “expedited enrollment” could help ESAP reach more multifamily buildings, at lower administrative cost.</p>	<p>Behalf of NCLC, NHLP and CHPC”, 11/18/11, <i>see</i> especially at MS-7 (“Requiring eligibility determinations for each individual household in a multifamily building” identified as one of the “key barriers for multifamily housing accessing” ESAP); at MS-9 (recommending that “the Commission should adopt an expedited multifamily enrollment process”).</p> <p>(b) “Testimony of Dan Levine” on behalf of NCLC, NHLP and CHPC, 11/18/11, at DL-5 (“we recommend an expedited multifamily enrollment process”); at DL-7 (describing the barriers created by “requiring tenants” to individually prove they are “income-eligible”); at DL-9 (recommending “Expedited multifamily enrollment”).</p> <p>(c) “Testimony of Wayne Waite Re: Expedited Enrollment” on behalf of NCLC, NHLP and CHPC, 11/18/11 (“shar[ing] the experience that HUD (working closely with the Department of Energy ... and the California Department of Community Services) have had in using what I will here call ‘expedited enrollment’”).</p> <p>(d) “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 17-25 (“The Commission Should Adopt an Expedited Enrollment Process for Multifamily Rental Buildings”).</p> <p>(e) “Reply Brief of NCLC, CHPC and NHLP,” 2/16/12, at 4-6 (“An Expedited Enrollment Process for Multifamily Rental Buildings ...”)</p> <p>FINAL DECISION:</p> <p>D.12-08-044, at 13 (“the Commission intends to further examine and develop an informed record regarding ... NCLC’s proposed multifamily</p>	
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	expedited enrollment process”); at 167 (same); at 325, Finding of Fact 84 (same); at 355, Conclusion of Law 86 (same).	
<p>4. Housing Subsidies: NHLP (coordinating closely with CHPC and NCLC) factually contended that the value of many housing subsidies (public housing, low-income housing tax credit and project-based section 8) cannot be quantified and, as a policy matter, that the value of housing subsidies should not be counted as income in determining ESAP eligibility.</p>	<p>CLAIMANT’S PRESENTATIONS</p> <p>4. (a) “Testimony of Wayne Waite Re: Counting of Housing Subsidies As Income” on behalf of NCLC, NHLP and CHPC, 11/18/11, at WW A-2 to A-6 (As a Manager at the Department of Housing and Urban Development [“HUD”], Mr. Waite described HUD’s various housing subsidy programs, noting that “a household living in HUD-subsidized does not receive any direct assistance from HUD”; that “HUD provides subsidies for property owners”; that the “Housing Benefit received by the tenant” cannot “be easily quantified”; and because HUD’s “housing subsidies are not assistance given directly to the tenant,” the “assistance programs [he is] familiar with do not value housing subsidies in income calculations.”)</p> <p>(b) The “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 8-17, argued that “ The Non-Cash Value of Housing Subsidies Should Not be Counted as Income,” including a summary of: the five major housing subsidy programs; of Mr. Waite’s testimony; and of relevant statutes and regulations.</p> <p>(c) “Comments of CHPC and NHLP” on the May 2, 2012 Proposed Decision of ALJ Kim, 5/24/12, at 2-5.</p> <p>FINAL DECISION:</p> <p>D.12-08-044: at 13 (discussion of “Expedited Enrollment Proposal, Housing Subsidy and Income</p>	<p>Yes, but <i>see</i> Issue 1, above.</p>

	Definition,” stating that “NCLC’s proposed multifamily expedited enrollment process” including “housing subsidy” issues will be “further examine[d]” in the “second phase”); at 167 (same); at 355, Conclusion of Law 86 (same).	
<p>5. General multifamily issues, including “whole house” approach, single point-of-contact, overcoming the barriers multifamily buildings face in accessing ESAP and ensuring that these buildings are equitable served.</p> <p>NHLP, in coordination with CHPC and NCLC, raised several issues which generally address the barriers that multifamily buildings face in accessing ESAP.</p> <p>1. NHLP factually contended that multifamily buildings are underserved.</p> <p>2. NHLP recommended that ESAP should provide a single point-of-contact/“one-stop shopping” for multifamily buildings seeking ESAP services, to overcome the barriers that currently exist due to tenants and owners having to apply separately to ESAP, the general energy efficiency program, and possibly other programs.</p> <p>3. NHLP similarly contended that ESAP should take a “whole house” approach so that all cost-effective measures will be delivered once a multifamily building seeks services.</p>	<p>CLAIMANT’S PRESENTATIONS:</p> <p>Regarding the contention that multifamily buildings are underserved:</p> <p>5. (a) “Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 11/18/11, at MS-7 to MS-9 (citing KEMA data and responses to NCLC and CHPC data requests).</p> <p>(b) “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 25-29 (summarizing relevant testimony and filings and discussing the barriers which lead to the multifamily sector being underserved).</p> <p>(c) “Reply Brief of NCLC, CHPC and NHLP,” 2/16/12, at 2-4 (discussing data from DRA’s brief supporting the contention that multifamily buildings are underserved).</p> <p>Regarding the contention that ESAP should take a more integrated, “whole house” approach:</p> <p>(d) “Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 11/18/11, at MS-3, MS-10, MS-12 to MS-16.</p> <p>(e) “Testimony of Dan Levine on Behalf of NCLC, NHLP, and CHPC,” 11/18/11, at DL-7 to DL-9 (citing problems with the limited measures currently offered by ESAP).</p> <p>(f) “Testimony of Wayne Waite Re: Tenant Benefits” on behalf of NCLC,</p>	<p>Yes, but see above. This is a general issue in which Issues 1 and 2 were addressed.</p>

	<p>NHLP and CHPC, 11/18/11, at WW C-3 to WW C-5 (explaining how a “whole building approach” that addresses landlord-metered loads can provide benefits to tenants).</p> <p>(g) “Reply Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 12/9/11, at. MS-4.</p> <p>(h) “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 25-26, at 33-36, 43-46.</p> <p>(i) “Reply Brief of NCLC, CHPC and NHLP,” 2/16/12, at 7-10 (noting the support of other parties for a “whole-building” approach).</p> <p>Regarding the recommendation that ESAP adopt a single point-of-contact/ “one-stop shopping”:</p> <p>(j) “Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 11/18/11, at MS-3, MS-7, MS-10, MS-12 to MS-16.</p> <p>(k) “Testimony of Dan Levine on Behalf of NCLC, NHLP, and CHPC,” 11/18/11, at DL-4, DL-7 to DL-9.</p> <p>(l) “Reply Testimony of Matt Schwartz on Behalf of NCLC, NHLP and CHPC,” 12/9/11 at MS-4, MS-11 to MS-12.</p> <p>(m) “Reply Testimony of Ann Silverberg on Behalf of NCLC, NHLP and CHPC,” 12/9/11, at AS-4, AS-7.</p> <p>(n) “Initial Brief of NCLC, CHPC and NHLP,” 2/2/12, at 30-33, 43.</p> <p>FINAL DECISION:</p> <p>Regarding whether multifamily sector is underserved:</p> <p>D.12-08-044, at 138-139 (discussing</p>	
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	<p>“CHPC et al.’s observation” regarding the “multifamily segment issue” and noting that the “ESA Program must undertake reasonable efforts to remedy” the concern that the segment may be underserved;</p> <p>At 154-155 (discussing the data from the KEMA study and noting “that the ESA Program can certainly be improved to better serve this multifamily housing segment”);</p> <p>At 155 (referring to the same data discussed in the NCLC/CHPC/NHLP Reply Brief [<i>see</i> par. 5.(e), above], noting that “with the exception of SDG&E, each IOU’s multifamily homes treated figure dipped during the last program cycle”).</p> <p>At 324-325, Finding of Fact 79 (drawing on an argument made in the Reply Brief of NCLC et al., 2/16/12, at 2-4).</p> <p>Regarding whole house approach and one-stop shopping/single point of contact:</p> <p>D.12-08-044, at 141-144 (summarizing NCLC and CHPC’s positions on these issues), at 161 (“the proposed concept of single point of contact is approved”).</p> <p>Regarding overcoming the barriers that the multifamily segment faces in accessing ESAP:</p> <p>D.12-08-044, at 164-167 (establishing a Multifamily Segment Study with a budget of \$400,000 and setting strict deadlines; requiring evaluation of “programs administered in other jurisdictions” [note that the reply testimony of Charles Harak on behalf of NCLC reviewed programs in MA, RI and NJ]; requiring examination of</p>	
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	<p>“comments, objections and proposals from parties to the proceeding” and of the “single point of contact” approach”).</p> <p>At 324-325, Findings of Fact 80-84 (discussing steps to identify “if the ESA Program is not effectively reaching the multifamily segment” and describing “eight immediate strategies ... to immediately begin improving the penetration rate for the multifamily segment”).</p> <p>At 388-389, Ordering paragraphs 70-72 (regarding “eight immediate Multifamily Segment Strategies” and “Multifamily Segment Study”).</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
c. If so, provide name of other parties: California Housing Partnership Corporation (CHPC), National Consumer Law Center (NCLC), TURN, Green for All, Center for Accessible Technology, National Asian American Coalition, Latino Business Chamber of Greater Los Angeles, Black Economic Council (the prior three known as “Joint Parties”), Natural Resources Defense Council (NRDC).		NHLP consistently provided joint testimony and other filings with CHPC and NCLC
d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: NHLP worked very closely with ORA and with other intervenors who		We do not agree that NHLP avoided duplication with NCLC and CHPC. These three

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

addressed similar issues. We worked especially closely with NCLC and CHPC, as described more fully below, to avoid duplication.

In terms of avoiding duplication with ORA, the intervenors CHPC/NCLC/NHLP (“three intervenors”) acted as a unified team and, through one or more of these three intervenors, had numerous phone calls and meetings with DRA. In those discussions, the three intervenors kept ORA fully abreast of the issues we intended to address in our workshop presentations, testimony, discovery, and brief so that ORA would not need to duplicate any of our own work on multifamily issues. The intervenor team also elicited from ORA the extent to which it would be addressing any of the issues we sought to address. As the briefs and other documents filed in this case make clear, ORA largely did not address the multifamily issues that were the focus of our efforts. ORA’s briefs referred to the issues we raised and supported positions taken by the three intervenors, reflecting our conversations with ORA in which we sought to coordinate with, but not duplicate, ORA’s own efforts. *See, e.g.,* ORA Opening Brief, 2/2/12, at 10, 59-60.

Similarly, the three intervenors had numerous phone calls and e-mail exchanges with several of the other intervenors (especially NRDC, TURN, Center for Accessible Technology, the Joint Parties and Green for All) to advise them of the positions we would be taking, to avoid their duplicating our efforts or us duplicating theirs. The results of these coordination calls and e-mails can partially be seen in the “Testimony of Matt Schwartz on behalf of NCLC, NHLP and CHPC,” 11/18/11, at MS11, which includes a table showing which other parties support the positions taken by the three intervenors. The same testimony, at MS-11 and MS-12, similarly shows the three intervenors’ support for positions of other parties which, due to coordinating with other parties, required almost no expenditure of additional time on those issues; the three intervenors deferred to the work of other parties.

In a similar vein, the briefs of other intervenors demonstrate support for positions the three intervenors took, reflecting our coordination efforts, and avoiding those other intervenors duplicating any of our testimony, discovery or other efforts. *See, e.g.,* “Reply Brief of NCLC, CHPC and NHLP,” 2/16/12.

At 8 (citing support by NRDC and the Joint Parties in their briefs for positions taken by the three intervenors).

The three intervenors – CHPC, NCLC, and NHLP – had numerous calls and e-mails among ourselves to avoid duplication. Examples of this include:

parties largely provided joint testimony, substantive comments and other filings in A.11-05-017 et al. NHLP’s claim does not properly distinguish its unique and separate substantial contribution, separate and apart from those other parties. Thus, comments, responses, reply briefs, and testimony largely presented material that is duplicative of NCLC and NHLP, as well as earlier filings.

Our review of the timesheets filed by the three intervenors show duplicative claims for seemingly same or similar efforts. Moreover, comments, responses, reply briefs and other filings largely consisted of recycling of prior filings and reiteration of points and materials previously made and therefore a duplicative of earlier filings with minor unique responses that made up a small percentage of subsequent filings yet several hours were again billed for this work.

We therefore consider the billed hours by NHLP excessive and have reduced the

<p>(1) dividing up preparation for – and presentations at -- the multifamily workshops; (2) dividing up coverage of the other workshops (NHLP attended only two other workshops, due to this coordination); (4) drafting separate sections of comments and briefs filed to avoid duplication of writing efforts; (5) dividing up the responsibility for answering the several questions propounded by the ALJ.</p>	<p>compensated hours accordingly.</p> <p>We agree that these intervenors provided an important perspective, but claiming approximately 730 hours under the circumstances is not reasonable for issues that represented only a small portion of and narrow scope of the overall proceeding which addressed numerous issues affecting the ESA and CARE Programs. We address this more fully below.</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Intervenor’s claim of cost reasonableness:	CPUC Verified
<p>Note: A precise dollar value cannot be provided at this time for benefits realized, as the Commission has deferred to the second phase of this proceeding further consideration of the changes NHLP has proposed to be made to ESAP’s service of multifamily buildings.</p> <p>However, D.12-08-044 unquestionably initiates major changes to how ESAP serves multifamily properties. Thirty full pages of the decision (section 3.10, at 137 to 167) are devoted to the “Multifamily Housing Segment.” The Commission has already required the adoption of eight “Multifamily Segment Strategies” and has also mandated the retention of a multifamily segment consultant to further explore the many multifamily issues raised by NCLC/CHPC/NHLP and other parties. The decision overturns the legal barrier to ESAP providing assistance for heat and hot water measures in multifamily housing, even if it remains for the second phase to determine if such assistance will actually be provided, and the extent of such assistance. The decision also already mandates a whole house approach and a single point of contact for multifamily buildings. The mandated consideration of expedited enrollment may allow many more multifamily buildings to access ESAP.</p>	<p>We note that this explanation is quite similar to that provided by NCLC and CHPC. As with NCLC and CHPC, we find that the claimed cost of NHLP’s participation does not bear a reasonable relationship with results realized through its participation.</p> <p>We recognize that NHLP’s billed fees are an order of magnitude below that claimed by NCLC. However, due</p>

ESAP will expend \$1.1 billion over the next three years (D.12-08-044, at 6), yet each of the IOU's (with the exception of SDG&E) is under-serving multifamily households relative to the company's own estimate of the percentage of ESAP-eligible households living in multifamily housing. Similarly, the Decision, at 155, notes that "each IOU's multifamily homes [percentage] treated figures" (with the exception of SDG&E) is falling, comparing 2007-2010 to prior periods. If the changes urged by NHLP that are slated for review in Phase 2 result in even a 1% increase in total ESAP funding going to the multifamily sector, that would result in a \$10 million increase in efficiency services in the multifamily sector. It is not at all unreasonable to assume that the changes initiated in D.12-08-044 will lead to much more than a 1% increase in total expenditures in the multifamily segment, given the focus of the Decision on that segment.

to our finding of duplication, we also find that NHLP has not demonstrated how the cost of its participation is reasonably related to the benefits ratepayers receive because of its participation.

While we find that a substantial contribution was made in the narrow scope of issues it focused on, much of the time claimed by NHLP is unreasonable given the duplication with NCLC and CHPC. NHLP also focused on a very narrow scope of issues, primarily in the multifamily sector. We must consider this contribution in the context of a very large proceeding with a wide array of issues.

Therefore, NHLP's compensation in this decision is reflective of and commensurate with its substantial contribution to the select portion of the overall ESA and CARE Programs.

Specifically, we have reduced the hours compensated, which is appropriate both because of duplication and because of the narrow range of issues

	that this party has focused on. With these adjustments, we concur that the benefits realized bear a reasonable relationship to NHLP's participation in the proceeding.
<p>b. Reasonableness of Hours Claimed.</p> <p>NHLP (in coordination with CHPC and NCLC) engaged in presenting the testimony of six witnesses (with Mr. Schwartz filing initial and reply testimony); serving three rounds of data requests; co-leading the multifamily workshop; responding to questions posed by the ALJ that required amassing significant data; and filing 65 pages of briefs.</p> <p>NCLC/CHPC/NHLP were able to arrange for the testimony of five expert witnesses at no cost, including HUD official Wayne Waite, who has expertise of both housing and energy efficiency programs, and others who have expertise in how ESAP actually works in the field for owners and operators of multifamily housing.</p> <p>As noted above, section II.B, regarding duplication of efforts, NHLP strove to coordinate closely with other parties and put in extremely minimal time on various issues it had intended to address more fully, once it learned that other parties would be covering those issues. NHLP, CHPC and NCLC also made sure that other parties with similar interests were aware of our planned efforts, so that they could simply voice their support for our positions, without having to spend time themselves on factually and legally developing those issues.</p>	<p>As discussed above, the hours claimed by NHLP are not reasonable and have been adjusted to account for duplication, inefficiency, and the narrow range of issues focused on. Even considering the fact that this proceeding spanned 14 months, NHLP's efforts and contribution were narrowly focused.</p> <p>Early on in this proceeding, the assigned ALJ properly provided guidance and clearly stated concerns about potential duplication due to the number of intervenors with overlapping concerns. (<i>See, e.g.,</i> Ruling dated November 30, 2011.)</p> <p>In examining this issue, we thoroughly reviewed the filings jointly presented by NCLC, NHLP and CHPC for their substance, the legal or</p>

	<p>expert nature of the filings contents, the uniqueness of the contents in comparison to previous filings by these organizations in this docket, and by who appeared to be the lead on the filing based on the time sheets that were submitted. Filings were up to 85% repetitive of previous filings with the residue of the document being unique responses to other comments or briefs filed in the proceeding. We cannot differentiate the contribution made by NHLP independent of that made by NCLC or CHPC. Therefore, we have reduced the excessive hours claimed to produce duplicative filings. (See Part III.C.)</p> <p>Even recognizing that the proceeding spanned 14 months, given the duplication and the narrow scope of issues NHLP focused on in the overall ESA and CARE proceeding, the hours claimed are excessive.</p>
<p>c. Allocation of Hours by Issue</p> <p>Issue Areas (with letter code)</p> <p>A. Code §1941.1 does not legally prohibit ESAP assisting multifamily buildings</p>	<p>Accepted, although these general issue categories do not correspond with the issues outlined in the</p>

7.6 hours B. As a policy matter, the PUC should allow ESAP to assist multifamily Buildings, including for common areas (heat, hot water, etc.) 7.9 hours C. The Commission should consider adoption of "expedited enrollment" for multifamily buildings 20.3 hours D. Housing subsidies should not be counted as income in ESAP 56.95 hours E. General multifamily issues, including "whole house" approach/single point of contact, underserving of multifamily segment, barriers multifamily buildings face 17.85 hours F. General legal work 18 hours See attachment 2 for more details	Assigned Commissioner's Amended Scoping Memo Ruling, dated January 26, 2012.
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C. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hour s	Rate	Basis for Rate*	Total \$	Hour s	Rate	Total \$
Kent Qian	2011	66.7	\$180	See Comment C.1.	\$12,006.00	33.5	\$180	\$6,030.00
Kent Qian	2012	52.9	\$180	See Comment C.1.	\$9,522.00	26.5	\$180	\$4,770.00
	Subtotal:				\$21,528.00	Subtotal:		\$10,800.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hour s	Rate	Total \$
Kent Qian	2012	12.1	\$90	See attachment 3	\$1,089.00	12.1	\$90	\$1,089.00
	Subtotal:				\$1,089.00	Subtotal:		\$1,089.00
TOTAL REQUEST \$:					\$22,617.00	TOTAL AWARD \$:		\$11,889.00
* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks								

compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

****Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.**

Attorney	Date Admitted to CA Bar	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Kent Qian	12/1/2009	264944	No

D. CPUC Disallowances and Adjustments:

#	Reason
1. Hourly Rate for Kent Qian	In this proceeding, Kent Qian was a staff attorney for the National Housing Law Project. He graduated from the University of Chicago Law School in 2009 and was sworn into the California State Bar in 2009. This was Qian's second year of practice before the Commission representing an intervenor party. We concur that the requested hourly rate of \$180 for 2011 and 2012 is reasonable, as it is within the range set forth by the Commission in Resolution ALJ-281 (prescribing range of \$150-\$205 for attorneys with 0-2 years of experience for 2011 and \$155-\$210 for 2012).
2. Disallowance for lack of efficiency and duplication	The number of hours that NHLP has claimed for billed fees is excessive, given the amount of collaboration that went into almost all of its filings, the very narrow scope of issues this party focused on, primarily the multifamily sector, and the duplication among CHPC, NCLC, and NHLP. In addition, many of the jointly-filed documents were repetitive of earlier filings and provided little unique or additional substantive information.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(C)(6))?	No
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If not:

Party	Comment	CPUC Disposition
	No comments were filed.	

FINDINGS OF FACT

1. The National Housing Law Project has made a substantial contribution to Decision (D.) 12-08-044.
2. The requested hourly rates for the National Housing Law Project's representative, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$11,889.00.

CONCLUSION OF LAW

The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code Sections 1801-1812.

ORDER

1. National Housing Law Project is awarded \$11,889.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company shall pay National Housing Law Project their respective shares of the award, based on their California-jurisdictional gas and electric revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning January 12, 2013, the 75th day after the filing of National Housing Law Project's request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	
Contribution Decision(s):	D1208044		
Proceeding(s):	A1105017 et al.		
Author:	ALJ Kim		
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
National Housing Law Project	10/ 29/12	\$22,617.00	\$11,889.00	N/A	Disallowance for duplication of efforts and lack of efficiency,

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Kent	Qian	Attorney	National Housing Law Project	\$180	2011	\$180
Kent	Qian	Attorney	National Housing Law Project	\$180	2012	\$180

(END OF ATTACHMENT)